

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.23072 of 2012**

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Vishnu Kant Gupta Son of Late Baidyanath Prasad, resident of mohalla- Balua Tal,  
Police Station- Sadar Motihari, District- East Champaran.

.... .... Petitioner/s

Versus

1. Chandeshwar Prasad Srivastava
2. Shashi Bhushan Srivastava  
Both are sons of Late Rameshwar Prasad Srivastava
3. Meena Devi
4. Bachchi Devi  
Both are Daughters of Late Rameshwar Prasad Srivastava,  
All are residents of village- Chakia, Police Station- Pipra, District- East  
Champaran
5. Most. Dhunwanti Devi Wife of Late Parmeshwar Kurmi
6. Krishna Kumar Sinha
7. Uma Shankar Sinha
8. Rama Shankar Sinha,  
Sons of Parmeshwar Kurmi  
All are resident of village- Chakia, P.S. Pipra, District- East Champaran.
9. M/S Champaran Sugar Company Ltd., Barrah Factory Branch at Barachakia,  
P.O. Barachakia, P.S.- Pipra, District East Champaran
10. Bigu Prasad
11. Anand Kumar  
Both are sons of Late Ramashish Sah
12. Usha Devi D/o Late Ramashish Sah, R/o Kesharia Road, P.O.- Bara Chakiya,  
District- East Champaran.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Adv.

For the Respondent/s :

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**

**ORAL JUDGMENT**

**Date: 08-12-2017**

This application has been filed for setting aside the  
order dated 5<sup>th</sup> October 2012 passed by the learned Additional  
Munsif-I, Motihari, East Champaran in Title Suit No. 78 of 2003  
whereby and whereunder the prayer of the petitioner to implead him



as party to the suit, was rejected.

**2. Heard.**

**3.** It appears that the respondent no.9, M/S Champaran Sugar Company Limited (hereinafter referred to as “Company”) filed the aforesaid suit against the defendant 1<sup>st</sup> and 2<sup>nd</sup> set, who are respondent nos. 1 to 8, for declaration of title besides some other reliefs. The said suit was dismissed against which an appeal bearing Title Appeal No. 156 of 1989 was filed. The said appeal was allowed and the suit was remanded to the Court below. During the pendency of title suit, the Company winded up in the year 1994 and the petitioner purchased the same in auction sale vide order dated 31<sup>st</sup> January 2001 passed in Company Petition No. 02 of 1993 by the Hon’ble Allahabad High Court. The said sale was confirmed by the Hon’ble Apex Court in Civil Appeal No. 4944 of 2008 as per order dated 8<sup>th</sup> August 2008. Subsequently, the Official Liquidator handed over the possession of all the assets of the Company to the petitioner and issued certificate dated 21<sup>st</sup> January 2009. The petitioner claims to be owner of all the assets of the Company. The Company filed a petition under Order 1 Rule 10 of the Code of Civil Procedure before the Court below, which after hearing was rejected. The only objection, which has been raised by the opposite party, is that the suit has been decreed in favour of plaintiff and as at the time of trial this



petitioner was not party to the suit, the petitioner cannot be added at this stage. The Court below has erred in observing so and also overlooked the fact that entire assets of plaintiff have been purchased by him in auction sale which has been confirmed by the Hon'ble Apex Court. The respondent no. 9 is left with no interest in the suit property and so the petitioner is necessary party to the suit to protect his interest. The impugned order rejecting the petition is therefore set aside and the petitioner is ordered to be impleaded as party to the suit.

4. Accordingly this application is allowed.

**(Sanjay Kumar, J)**

Mahesh/-

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